

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARCO ALMONTE,

:

Plaintiff,

:

15 Civ. 6843 (PAE) (HBP)

-against-

:

OPINION  
AND ORDER

KENNETH HINES, et al.,

:

Defendants.

:

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PITMAN, United States Magistrate Judge:

I write to resolve the discovery disputes raised in plaintiff's letter December 28, 2016 (Docket Item ("D.I.") 38) and addressed in defendants' letter dated January 9, 2017 (D.I. 39).

In his first interrogatory, plaintiff asked for the following:

Interrogatory No. 1.: On the night of December 5th, 2013 police officer Kenneth Hines was on or had previously been placed on "performance monitoring" for excessive complaints that he used excessive force. The plaintiff requests, exposure into the records [sic] and all documents related including all facts related as, when, why and for how long officer "Hines" was placed on performance monitoring.

In an Order dated November 18, 2016 (D.I. 35), I directed defendants "to produce responsive documents, if any, for a period of five years prior to the date of the alleged incident giving rise

to this action to the extent, if any, the performance monitoring was the result of either Officer Hines' actual or alleged use of excessive force or falsification of official documents." Plaintiff claims that the documents he received in response to this item indicate that at least part of the reason Hines was placed on performance monitoring was his disciplinary history but that documents concerning that disciplinary history were not produced. Defendants' do not dispute this description of their response and cryptically state "Defendants respectfully submit that they have produced the entirety of the Performance Monitoring File."

Defendants do not otherwise address their failure to produce the portions of Hines' disciplinary history that contributed to his being placed on performance monitoring. If there are documents concerning Hines' disciplinary history that bear on his being placed on performance monitoring, they fall within the scope of my November 18 Order. Within 14 days of the date of this Order, defendants are to produce all documents concerning Hines' disciplinary that (1) predate his being placed on performance monitoring and (2) relate to Hines' actual or alleged use of excessive force or falsification of official documents.

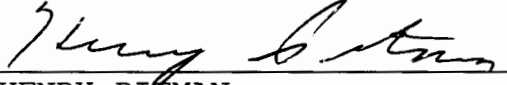
Defendants' January 9 letter adequately explains their response the references in the documents to Hines' probationary status, and no further production concerning this issue is required.

Defendants' January 9 letter adequately explains the redactions from Hines' CCB history, and no further production concerning this issue is required.

With respect to Interrogatory 6, defendants are ordered to produce the complaint in Wright and Abdul Bashir v. City of New York, 97 Civ. 2093 (S.D.N.Y.) within 14 days of the date of this Order. Although this document was not filed electronically on the Court's ECF system, there is no indication in the docket sheet that it was ever sealed or otherwise afforded confidential treatment. The simple fact that defendants' counsel cannot access it electronically is not a basis to withhold it. Defendants' invitation to plaintiff to identify any other documents he is seeking in response to this Interrogatory is otherwise sufficient.

Dated: New York, New York  
January 31, 2017

SO ORDERED

  
HENRY PITMAN  
United States Magistrate Judge

Copies mailed to:

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